

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SHANE K. HOPKINS,)
)
Plaintiff,)
)
v.) Civ. No. 05-870-SLR
)
C/O J. PUSEY, C/O J. SMITH,)
DEPUTY WARDEN DAVID E. PIERCE)
JR., LISE MERSON, JUDITH)
MULLEN, DREWRY NASH FENNELL,)
and M. JANE BRADY,)
)
Defendants.)

O R D E R

At Wilmington this ~~25th~~ day of July, 2006, defendants Drewry Fennell and Judith Mullen having filed a motion to dismiss the complaint and an accompanying brief on June 5, 2006 (D.I. 29, 30);

IT IS ORDERED that:

1. Because matters outside of the pleadings were presented to the court in support of said motion to dismiss, the court will review the motion as one for summary judgment pursuant to Fed. R. Civ. P. 12(b) and 56(b).

2. Because defendant relies upon an affidavit in support of the motion, the averments of fact in the affidavit shall be accepted as true, pursuant to Fed. R. Civ. P. 56(e), for the purpose of deciding the motion unless plaintiff timely files a counter-affidavit or statement under penalty of perjury

refuting said averments.

3. Briefing on this motion shall proceed in accordance with the following schedule:

a) Plaintiff shall file and serve a response to defendant's motion (including an answering brief and accompanying affidavits, exhibits, etc., if any) on or before **August 25, 2006**.

b) Defendant may file and serve a reply brief on or before **September 11, 2006**.



United States District Judge